

REMARKS

In the final office action mailed on May 1, 2008, claims 27 – 29, 31 – 40, 42 – 44, 46 and 47 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,141,530 (to Rabowsky) in view of U.S. Patent No. 6,698,020 (to Zigmond et al.). Claims 27, 38 and 43 were also objected to and rejected in view of certain language of the claims that is alleged to be directed to method steps and/or accomplishments of method steps. The objected to language has been removed.

With regard to claims 27 and 38, these claims are amended herein to remove the objected-to language. With regard to claim 43, this method claim is herein amended to expressly recite the method step as requested.

The final office action mailed May 1, 2008 states that in Rabowsky, “it is unclear how the ads are chosen for inclusion in the schedule” (Office Action, p.3). Applicant respectfully submits however, that because Rabowsky discloses that its schedule of movies must be **authorized** (Rabowsky, col.2, lines 2 – 3), the schedule of movies is not disclosed to be automated. With regard to advertisements, the brief disclosure in Rabowsky of inserting an advertisement into a play-back schedule is also not automated. In fact, Rabowsky expressly states that a “theatre operator interface provides the operator with the ability to modify the schedule” (Rabowsky, col.12, lines 17 – 18). Further, the example of such insertion of advertisements in Rabowsky, is disclosed to be a **manual** insertion (Rabowsky, col.12, lines 26 – 28). The advertisements are also required to “not violate contractual terms” (Rabowsky, col. 12 , line 21).

Applicant respectfully submits, therefore, that Rabowsky **teaches away** from providing an automated selection system for advertisements because Rabowsky teaches that advertisements

are manually selected. One skilled in the art, therefore, would not have been motivated to modify Rabowsky in a way that is contrary to the teachings of Rabowsky. *Ex Parte Smoth*, 2007 WL 4357843 (Bd.Pat.App. & Interf. 2007) (agreeing with applicant that the prior art teaches away from the claimed subject matter).

With regard to Zigmond et al., the final office action states that “Zigmond et al. teaches a system where video programming is provided with selected targeted advertising” (Office Action, p.3). The Zigmond et al. reference, however, discloses that a “targeted advertisement” may be selected for insertion into an existing a “programming feed” and does not disclose the creation of a ***schedule*** of advertisements (Zigmond et al., col.6, lines 4 – 6). In particular, Zigmond et al. discloses that the programming feed includes national broadcast or cable programming that includes advertisements (Zigmond et al., co.1, lines 62 – 64; col.2, lines 26 – 30; and col.7, lines 5 – 8). Selecting individual ads for specific time allocated spots in a programming feed is not the same as creating a schedule of targeted ads, which is a far more complex undertaking. One skilled in the art would not have been motivated to employ an advertisement insertion system of Zigmond et al. to create a system that automatically generates a schedule of advertisements for a pre-showing at theatres because Zigmond et al. discloses only that an individual pre-existing time slot may be filled based on target criteria.

The present invention provides that a ***schedule*** of advertisements is developed by an automated selection means. In particular, claims 27 and 38 state that the system includes an automated selection means that seeks to fill a ***schedule*** of advertisements associated with each selected actual movie showing. Amended claim 43 states that the method includes the step of processing the common interest data and the data representative of advertising schedule requests

using a computer processing system to seek to *fill a schedule* for each of the plurality of actual movie showings.

Applicant further submits that these features of the claims are not taught or suggested by any combination of the references. There is no disclosure in either of the Rabowsky reference or the Zigmond et al. reference of a system and method for seeking to fill a schedule of a plurality of advertisements.

Each of claims 28 – 29 and 31 – 37 depends directly or indirectly from claim 27 and further limits the subject matter thereof. Each of claims 39 – 40 and 42 depends directly or indirectly from claim 38 and further limits the subject matter thereof. Each of claims 44 and 46 – 47 depends directly or indirectly from claim 43 and further limits the subject matter thereof.

Applicant respectfully submits, therefore, that each of claims 27 - 29, 31 – 44, and 46 - 47 is in condition for allowance. Favorable action consistent with the above is respectfully requested.

Respectfully submitted,



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